

(b) *Place of application.* Official visas are ordinarily issued only when application is made in the consular district of the applicant's residence. When directed by the Department, or in the discretion of the consular officer, official visas may be issued when application is made in a consular district in which the alien is physically present but does not reside. Certain aliens in the United States may be issued official visas by the Department under the provisions of § 41.111(b).

(c) *Classes of aliens eligible to receive official visas.* (1) A nonimmigrant within one of the following categories who is not eligible to receive a diplomatic visa shall, if otherwise qualified, be eligible to receive an official visa irrespective of classification of the visa under § 41.12:

(i) Aliens within a category described in § 41.26(c)(1) who are ineligible to receive a diplomatic visa because they are not in possession of a diplomatic passport or its equivalent;

(ii) Aliens classifiable under INA section 101(a)(15)(A)(i) or (ii), 8 U.S.C. 1101(a)(15)(A)(i) or (ii);

(iii) Aliens who are classifiable under INA section 101(a)(15)(G)(i), (ii), or (iv), 8 U.S.C. 1101(a)(15)(G)(i), (ii), or (iv);

(iv) Aliens who are classifiable under INA section 101(a)(15)(G)(iii), 8 U.S.C. 1101(a)(15)(G)(iii), as representatives of a foreign government traveling to an international organization so designated by Executive Order, where such foreign government is not a member of the international organization;

(v) Aliens classifiable under INA section 101(a)(15)(C), 8 U.S.C. 1101(a)(15)(C), as nonimmigrants described in INA section 212(d)(8), 8 U.S.C. 1182(d)(8);

(vi) Members and members-elect of national legislative bodies;

(vii) Justices of the lesser national and the highest state courts of a foreign country;

(viii) Officers and employees of national legislative bodies proceeding to or through the United States in the performance of their official duties;

(ix) Administrative, service, and similar employees attached to foreign-government delegations to, and employees of, international bodies of an official nature, other than international organizations so designated

by Executive Order, proceeding to or through the United States in the performance of their official duties;

(x) Administrative, service, and similar employees of a foreign government proceeding to the United States on temporary duty or through the United States on a temporary basis in the performance of their official duties;

(xi) Administrative, service, and similar employees attached to foreign-government delegations proceeding to or from a specific international conference of an official nature;

(xii) Officers and employees of foreign governments recognized *de jure* by the United States who are stationed in foreign contiguous territories or adjacent islands;

(xiii) Members of the immediate family when accompanying or following to join a principal alien who is within one of the classes referred to or described in paragraphs (c)(1)(i) through (xii) of this section;

(2) Other individual aliens or classes of aliens are eligible to receive official visas upon the authorization of the Department, the Chief of a U.S. Diplomatic Mission, the Deputy Chief of Mission, the Counselor for Consular Affairs, or the principal officer of a consular post not under the jurisdiction of a diplomatic mission.

[52 FR 42597, Nov. 5, 1987; 53 FR 9111, Mar. 21, 1988, as amended at 86 FR 10456, Feb. 22, 2021]

Subpart D—Temporary Visitors

§ 41.31 Temporary visitors for business or pleasure.

(a) *Classification.* An alien is classifiable as a nonimmigrant visitor for business (B–1) or pleasure (B–2) if the consular officer is satisfied that the alien qualifies under the provisions of INA 101(a)(15)(B), and that:

(1) The alien intends to leave the United States at the end of the temporary stay (consular officers are authorized, if departure of the alien as required by law does not seem fully assured, to require the posting of a bond with the Secretary of Homeland Security in a sufficient sum to ensure that at the end of the temporary visit, or upon failure to maintain temporary visitor status, or any status subsequently acquired under INA 248, the

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alien will depart from the United States);

(2) The alien has permission to enter a foreign country at the end of the temporary stay; and

(3) Adequate financial arrangements have been made to enable the alien to carry out the purpose of the visit to and departure from the United States.

(b) *Definitions.* (1) The term “business,” as used in INA 101(a)(15)(B), refers to conventions, conferences, consultations and other legitimate activities of a commercial or professional nature. It does not include local employment or labor for hire. For the purposes of this section building or construction work, whether on-site or in plant, shall be deemed to constitute purely local employment or labor for hire; provided that the supervision or training of others engaged in building or construction work (but not the actual performance of any such building or construction work) shall not be deemed to constitute purely local employment or labor for hire if the alien is otherwise qualified as a B-1 nonimmigrant. An alien seeking to enter as a nonimmigrant for employment or labor pursuant to a contract or other prearrangement is required to qualify under the provisions of §41.53. An alien of distinguished merit and ability seeking to enter the United States temporarily with the idea of performing temporary services of an exceptional nature requiring such merit and ability, but having no contract or other prearranged employment, may be classified as a nonimmigrant temporary visitor for business.

(2)(i) The term pleasure, as used in INA 101(a)(15)(B) for the purpose of visa issuance, refers to legitimate activities of a recreational character, including tourism, amusement, visits with friends or relatives, rest, medical treatment, and activities of a fraternal, social, or service nature, and does not include obtaining a visa for the primary purpose of obtaining U.S. citizenship for a child by giving birth in the United States.

(ii) Any visa applicant who seeks medical treatment in the United States under this provision shall be denied a visa under INA section 214(b) if unable to establish, to the satisfaction of a

consular officer, a legitimate reason why he or she wishes to travel to the United States for medical treatment, that a medical practitioner or facility in the United States has agreed to provide treatment, and that the applicant has reasonably estimated the duration of the visit and all associated costs. The applicant also shall be denied a visa under INA section 214(b) if unable to establish to the satisfaction of the consular officer that he or she has the means derived from lawful sources and intent to pay for the medical treatment and all incidental expenses, including transportation and living expenses, either independently or with the pre-arranged assistance of others.

(iii) Any B nonimmigrant visa applicant who a consular officer has reason to believe will give birth during her stay in the United States is presumed to be traveling for the primary purpose of obtaining U.S. citizenship for the child.

[52 FR 42597, Nov. 5, 1987; 53 FR 9172, Mar. 21, 1988, as amended at 85 FR 4225, Jan. 24, 2020]

§41.32 Nonresident alien Mexican border crossing identification cards; combined border crossing identification cards and B-1/B-2 visitor visas.

(a) *Combined B-1/B-2 visitor visa and border crossing identification card (B-1/B-2 Visa/BCC)*—(1) *Authorization for issuance.* Consular officers assigned to a consular office in Mexico designated by the Deputy Assistant Secretary for Visa Services for such purpose may issue a border crossing identification card, as that term is defined in INA 101(a)(6), in combination with a B-1/B-2 nonimmigrant visitor visa (B-1/B-2 Visa/BCC), to a nonimmigrant alien who:

(i) Is a citizen and resident of Mexico;

(ii) Seeks to enter the United States as a temporary visitor for business or pleasure as defined in INA 101(a)(15)(B) for periods of stay not exceeding six months;

(iii) Is otherwise eligible for a B-1 or a B-2 temporary visitor visa.

(2) *Procedure for application.* Mexican applicants shall apply for a B-1/B-2 Visa/BCC at any U.S. consular office in Mexico designated by the Deputy Assistant Secretary of State for Visa